

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**TYRONE HENDERSON,
CHARLES TAYLOR, and
WILLIAM WILES,**

Plaintiffs,

v.

Civil Action No. 3:12cv589-REP

**ACXIOM RISK MITIGATION, INC.,
ACXIOM CORPORATION, and
ACXIOM INFORMATION SECURITY
SERVICES, INC.,**

Defendants.

JOINT STATUS REPORT

Pursuant to the Court's November 19, 2013 Order (Dkt. No. 61), Plaintiffs, Tyrone Henderson, Charles Taylor, and William Wiles ("Plaintiffs"), and Defendants, Acxiom Corporation, Acxiom Risk Mitigation, Inc., and Sterling Infosystems-Ohio, Inc., formerly known as Acxiom Information Security Services, Inc. (collectively, "Defendants"), through their respective attorneys of record, provide this Joint Status Report.

Procedural History

1. Plaintiffs have filed this putative nationwide class action against Defendants alleging violations of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §§ 1681, *et seq.* As required by the Court's scheduling order, Defendants have filed their respective responsive pleadings.

2. Over the past six months, the parties have been diligently discussing the possibility of settlement in this matter, as well as engaging in targeted discovery.

3. To this end, on June 28, 2013, counsel for the parties convened in Washington, D.C. to discuss the possibility of settlement. The parties discussed their respective positions and the possibility for settlement, and all of the parties agreed that the meeting was productive.

4. After the meeting in Washington, D.C., the parties also scheduled and attended a first, formal mediation. That mediation occurred on November 5-6, 2013 in Oakland, California at the office of Randall Wulff, a nationally-prominent mediator who is affiliated with Wulff, Quniby, Sochynsky. That meditation was attended by counsel for all of the parties, including their general counsel, and representatives from multiple insurance companies for the Defendants.

5. At the November 2013 mediation, the parties made substantial progress towards potentially reaching a resolution, although they did not reach a settlement agreement.

6. Per the suggestion of Mr. Wulff and the agreement of the parties, after the November mediation, counsel for Defendants and their respective insurers attended a meeting in New York City on December 15, 2013 to discuss issues related to settlement.

7. Thereafter, counsel for the parties/their insurers, as well as their associated representatives, attended a second two-day mediation session with Mr. Wulff on January 9-10, 2014 in Oakland, California. At that mediation session, the parties made further substantial progress towards resolving their dispute, although they have not yet reached a final settlement agreement.

8. Both the November 2013 and the January 2014 mediation dates were the only dates respectively available with Mr. Wulff given the high demand for his services. The Parties and the Defendants' insurers did not have input or the means to coordinate such dates, but instead accepted them as the first then available.

9. The range of differences between the Parties' settlement terms has been substantially narrowed. With the goal of resolving this dispute, the Parties continue to negotiate

settlement amounts and structure, and they have also begun to negotiate the scope and terms of potential release language.

10. Counsel for the Defendants and their insurers continue to actively discuss the many issues related to settlement.

11. At the mediator's instruction, the parties are also scheduled to attend separate telephone conferences with Mr. Wulff on January 23, 2014 to discuss the Parties' negotiation positions and definitive next steps to further narrow the remaining differences between the Parties, again with the goal of resolving this matter through the mediation process. .

THE JOINT REQUEST FOR A CONTINUED BRIEF STAY

12. On November 19, 2013, in light of the pending mediation and substantial settlement discussions, the Court granted the parties' joint motion to stay this action, with the parties also Ordered to provide the Court with a status report on the current state of settlement discussions by January 24, 2014.

13. Notwithstanding this stay, the parties have also engaged in a targeted discovery process, with Acxiom Corporation and Acxiom Risk Mitigation, Inc. making available their witnesses to discuss specific issues with Plaintiffs' retained expert witness, and with all of the Defendants also providing Plaintiffs with information and a substantial number of requested documents.

14. Since the entry of the initial stay, Plaintiffs also have taken the depositions of certain representatives from all of the Defendants.

15. Due to the progress made to date, the parties request a continued stay of all pre-trial deadlines, with the parties agreeing to submit a joint status report to the Court by February 27, 2014, updating the Court on the status of settlement discussions and the litigation, and further advising the Court of the proposed schedule then requested by the parties. At that time, if it is

agreed that the case should resume on a litigation track, the parties will submit to the Court for its consideration a revised Supplemental Scheduling Order, which will establish: (1) new deadlines for objections and responses to any written discovery that has been previously served by any of the parties; (2) new deadlines regarding expert disclosures; (3) a new discovery cutoff; and (4) a revised briefing schedule for any motions regarding class certification and/or motions for summary judgment.

16. The Parties and their counsel recognize that this request is extraordinary and is necessitated by the unique circumstances in this case. The case presents a large national class action case with three independent Defendants that may have their own differences, each Defendant with multiple layers of insurance coverage. At no point in this existing stay have the Parties ceased their effort to reach a mediated outcome. They have negotiated between mediation sessions as well as during them. This proposed brief stay, along with the requirement that the parties update the Court as to the status of their dispute in the short term, will not prejudice any of the parties, is jointly requested. But also importantly, the Parties' counsel represent that this process presents the most likely means to reach an agreement that while fair to each side also would conserve substantial judicial resources and reduce time and scheduling burdens on the Court.

17. Counsel for the parties agree and represent to the Court that they that believe that the process undertaken, and the relief requested by this motion, will maximize the possibility for substantive, good faith settlement negotiations and hence for resolving this unusually complex case by agreement rather than through protracted litigation. A copy of the proposed Agreed Order with the original signatures of counsel memorializing the further process reflected herein is currently being circulated and will be submitted to the Court in short order.

WHEREFORE, Plaintiffs, Tyrone Henderson, Charles Taylor, and William Wiles, and Defendants, Acxiom Corporation, Acxiom Risk Mitigation, Inc., and Sterling Infosystems-Ohio, Inc., formerly known as Acxiom Information Security Services, Inc., respectfully request that the Court: (1) enter the attached draft Order; and (2) grant the parties any such other and further relief as is proper.

**TYRONE HENDERSON, WILLIAM WILES,
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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of January 2014, I filed a true and correct copy of the foregoing on the Court's Electronic Case Filing System, which will send a notice of electronic filing to all counsel of record, including:

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